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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,853	07/02/2003	Robert W. Boesel	COM0201 #5 (038.0451)	9527
50/996 7590 02/19/2009 INGRASSIA FISHER & LORENZ, P.C. (FS) 7010 E. COCHISE ROAD SCOTTSDALE, AZ 85253				
EXAMINER PHAM, BRENDA H				
ART UNIT		PAPER NUMBER		
2416				
NOTIFICATION DATE		DELIVERY MODE		
02/19/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ifllaw.com

Office Action Summary

Application No.

10/613,853

Applicant(s)

BOESEL ET AL.

Examiner

BRENDA PHAM

Art Unit

2416

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24, 25, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-22 is/are allowed.
- 6) ☐ Claim(s) 1-11, 24, 25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-22, 24-25, 27-28 are pending.
2. The indicated allowability of claims 1-11, 24-28 is withdrawn in view of a memorandum dated May 15, 2008, entitled "Clarification of 'Processes' under 35 USC § 101"

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 25 recites the limitation "selectively directing the data from the separate buffers to one processing unit of a plurality of processing units, wherein the one processing unit is configured to perform vector processing operations" in lines 5-7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-11, 24, 25 and 27-29 are rejected under 35 U.S.C. 101 because the method claims do not fall within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under

35 U.S.C. 101 must (1) be tied to a particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing, see page 10 of In Re Bilski 88 USPQ2d 1385. In Re Bilski: "a claim that recites 'physical steps' but neither recites a particular machine or apparatus, nor transforms any article into a different state or thing, is not drawn to patent-eligible subject matter." Here, the court spelled out the specific issue in mind: a claimed process where every step may be performed entirely in the human mind. In that situation, the machine-or-transformation test would lead to unpatentability. "Of course, a claimed process where all of the process steps may be performed entirely in the human mind is obviously not tied to any machine and does not transform any article into a different state or thing. As a result, it would not be patent-eligible under §101. The instant claims are neither tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. In this case, the method claims could be completely performed mentally, verbally or without a machine or transformation apparent.

Allowable Subject Matter

7. Claims 12-22 are allowed over prior art made of record.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

February 16, 2009

/Brenda Pham/

Primary Examiner, Art Unit 2416